

1 ROBERT S. AARON (SBN 138903)  
2 TIMOTHY C. WILSON (SBN 173928)  
3 AARON & WILSON, LLP  
4 150 Post Street, Suite 400  
5 San Francisco, California 94108  
6 Telephone: (415) 438-7800  
7 Facsimile: (415) 438-7808  
8 rsaaron@aaron-wilson.com

6 **Attorneys for Defendants**

7 CHINA BOWL, INC. erroneously sued  
8 herein as "CHINA BOWL (Owner QUAN  
9 HE HAN)" and QUAN HE HAN

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 SHU SEN LU,

14 Plaintiff,

15 v.

16 CHINA BOWL (Owner, QUAN HE  
17 HAN),

18 Defendants.

) Case No. C 07 4951 EDL

) **DECLARATION OF ROBERT S. AARON**  
) **IN SUPPORT OF MOTION TO DISMISS**  
) (Fed. R. Civ. P. 12(b)(2)(3) and (6).)

) Date: January 30, 2008

) Time: 2:00 p.m.

) Ctrm: E

) The Honorable Elizabeth D. Laporte

19 Complaint Filed: September 25, 2007

20 I, ROBERT S. AARON, hereby declare as follows:

21 1. I am an attorney licensed to practice my profession in the State of  
22 California, and admitted to practice in the United States District Court for the Northern  
23 District of California. I am counsel of record for Defendants CHINA BOWL, INC. and  
24 QUAN HE HAN. I make this declaration in support of their Motion to Dismiss. I am  
25 completely familiar with the facts and circumstances set forth herein and could and  
26 would provide competent testimony thereto if called upon by this Court to do so, except  
27 where stated on information and belief, and as to those matters, I am informed and  
28 believe them to be true.

2. Attached hereto as Exhibit "A" is a true and correct copy of the Equal; Employment Opportunity Commission's acknowledgement letter to plaintiff SHU SEN LU concerning the age discrimination claim he had filed in San Francisco. The letter is addressed to an address in Missoula, Montana.

3. Attached hereto as Exhibit "B" is a true and correct copy of the electronic docket statement for the second case filed by plaintiff SHU SEN LU against Defendants CHINA BOWL, INC. and QUAN HE HAN.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in San Francisco, California on this 6<sup>th</sup> day of December 2007.

Robert S. Aaron

**EXHIBIT A**



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**San Francisco District Office**

350 The Embarcadero, Suite 500  
San Francisco, CA 94105  
(415) 625-5600  
TTY (415) 625-5610  
FAX (415) 625-5609

April 23, 2007

**Mr. Shusen Lu**  
**1123 Rollins Street #7**  
**Missoula, MT 59801**

RE: Proposed Complaint: #**555-2007-00299**  
Shusen Lu vs. China Bowl

Dear Mr. Lu:

This is to acknowledge receipt of your inquiry about an employment situation. **Based on our review of the information you provided, at this point we do not have sufficient information to continue processing your charge.** For instance, we need to know the *address and phone number* of your former employer, China Bowl, which you have not provided. In addition, for the EEOC to have coverage over your *age discrimination* allegations, the employer (China Bowl) must employ 20 or more employees. If the employer has fewer than 20 employees, then the EEOC *cannot* help you; you will need to contact another agency such as the Montana Human Rights Bureau or other appropriate agencies.

In addition, please keep in mind that because you are only reporting these complaints now, under federal law, the EEOC may *not* cover events or acts of discrimination that took place *in 2005 or earlier*; those events may be "untimely" or fall outside of the statutes of limitation. Please also understand that the EEOC is a civil rights agency, *not* a criminal law enforcement agency such as the police or sheriff's department, so we would not have jurisdiction over assaults or threats of bodily harm as you alleged in your statements. If you were assaulted or threatened with harm or if those actions are happening now, you need to report such incidents to the police or proper law enforcement authorities as soon as you can.

We left a phone message for you on 4/19/2007. **BECAUSE WE ARE UNABLE TO INVESTIGATE FURTHER WITHOUT AN INTERVIEW, YOUR CHARGE INQUIRY MAY BE DISMISSED SIXTY (60) DAYS FROM THE DATE OF THIS LETTER IF YOU DO NOT CONTACT US FOR AN INTERVIEW.** If you have any questions, please contact me at **(415) 625-5671** directly or by email at [blake.wu@eeoc.gov](mailto:blake.wu@eeoc.gov). Please note that in order to preserve your legal rights, you must file a charge of discrimination with the EEOC within 300 days of the date of violation (that is, the date you were first notified of the discriminatory action taken against you). If you do not file a charge of discrimination within that time frame, your right to sue in court will be lost.

Sincerely,

A handwritten signature in dark ink, appearing to be "BW", is written over the name Blake Wu.

Blake Wu  
Investigator, EEOC

**EXHIBIT B**

ADRMOP, E-Filing, ProSe

**U.S. District Court  
California Northern District (San Francisco)  
CIVIL DOCKET FOR CASE #: 3:07-cv-04979-MMC**

Lu v. China Bowl  
Assigned to: Hon. Maxine M. Chesney  
Cause: 28:1331 Fed. Question

Date Filed: 09/26/2007  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Shusen Lu**

represented by **Shusen Lu**  
180 Peabody Street  
San Francisco, CA 94134  
406 546-9335  
PRO SE

V.

**Defendant**

**China Bowl**  
*Owner: Quan He Han*

**Defendant**

**Quan He Han**

**Defendant**

**Ning Xi Jiang**

**Defendant**

**Quan Wei Han**

**Defendant**

**Man Li Kang**

Date Filed	#	Docket Text
09/26/2007	1	COMPLAINT (NO PROCESS);(IFP PENDING) against China Bowl. Filed by Shusen Lu. (aaa, Court Staff) (Filed on 9/26/2007) (Entered: 09/27/2007)
09/26/2007	2	ADR SCHEDULING ORDER: Case Management Statement due by 12/28/2007. Case Management Conference set for 1/4/2007 10:30 AM. Signed by Judge Maxine M. Chesney on 9/26/07. (Attachments: # <u>1</u>

		MMC Standing Order# 2 Standing Order)(aaa, Court Staff) (Filed on 9/26/2007) (Entered: 09/27/2007)
09/26/2007	3	MOTION for Leave to Proceed in forma pauperis filed by Shusen Lu. (aaa, Court Staff) (Filed on 9/26/2007) (Entered: 09/27/2007)
09/26/2007		CASE DESIGNATED for Electronic Filing. (aaa, Court Staff) (Filed on 9/26/2007) (Entered: 09/27/2007)
10/01/2007	4	ORDER DIRECTING PLAINTIFF TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED FOR IMPROPER VENUE. Plaintiff is directed to show cause, no later than October 18, 2007, and in writing not to exceed five pages, why the instant action should not be dismissed, without prejudice, for improper venue. Signed by Judge Maxine M. Chesney on October 1, 2007. (mmclc2, COURT STAFF) (Filed on 10/1/2007) (Entered: 10/01/2007)
10/18/2007	5	Response to 4 Order to Show Cause by Shusen Lu. (aaa, Court Staff) (Filed on 10/18/2007) (Entered: 10/18/2007)
10/18/2007	6	AMENDED COMPLAINT TO INCLUDE CHINA BOWL'S OWNERS AND EMPLOYEE against Quan He Han, Ning Xi Jiang, Quan Wei Han, Man Li Kang, China Bowl. Filed by Shusen Lu. (aaa, Court Staff) (Filed on 10/18/2007) (Entered: 10/18/2007)
10/29/2007	7	ORDER GRANTING PLAINTIFF LEAVE TO FILE AMENDED COMPLAINT. Plaintiff's First Amended Complaint shall be filed no later than November 13, 2007. Signed by Judge Maxine M. Chesney on October 29, 2007. (mmclc2, COURT STAFF) (Filed on 10/29/2007) (Entered: 10/29/2007)
11/13/2007	8	FIRST AMENDED EMPLOYMENT DISCRIMINATION COMPLAINT against Quan He Han, Ning Xi Jiang, Quan Wei Han, Man Li Kang, China Bowl. Filed by Shusen Lu. (aaa, Court Staff) (Filed on 11/13/2007) (Entered: 11/13/2007)

PACER Service Center			
Transaction Receipt			
12/06/2007 11:30:16			
PACER Login:	aw0195	Client Code:	Lu v. China Bowl
Description:	Docket Report	Search Criteria:	3:07-cv-04979-MMC
Billable Pages:	1	Cost:	0.08

**AFFIDAVIT OF SERVICE**

STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I, Ryan J. Sullivan, declare:

I am a citizen of the United States, over 18 years of age and not a party to the within action. I am self-employed in the City and County of San Francisco; my business address is 150 Post Street, Suite 400, San Francisco, California, 94108.

On December 6, 2007, I served the attached and/or enclosed:

**DECLARATION OF ROBERT S. AARON IN SUPPORT OF MOTION TO DISMISS**

on all parties in this action, at the following address(es):

Shusen Lu  
180 Peabody Street  
San Francisco, CA 94134  
Plaintiff In Pro Per

Service was accomplished by causing either an original or a true copy of the above-referenced document(s) to be distributed as follows:

☒ BY MAIL: I caused such document(s) to be placed in a sealed envelope, addressed as indicated above, with prepaid first-class postage thereon, and then placed the envelope(s) for collection and mailing, in accordance with the firm's ordinary business practice. I am readily familiar with the firm's ordinary business practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice correspondence for mailing is deposited with United States Postal Service on the date indicated for service, with prepaid first-class postage thereon.

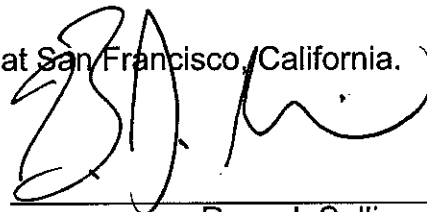
☐ BY HAND DELIVERY: I caused such documents to be hand delivered to the addresses indicated above.

☐ VIA FACSIMILE: I caused such documents to be transmitted via facsimile to the parties indicated above, at their respective facsimile numbers.

☐ VIA EXPRESS CARRIER: I caused such documents to be collected by an agent for the United States Postal Service, United Parcel Service, Federal Express or other overnight carrier, to be delivered by way of overnight mail to the addresses indicated above.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on December 6, 2007, at San Francisco, California.



Ryan J. Sullivan